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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,684	05/14/2001	Hideki Takata	35.C15355	6808
5514	7590	06/02/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			TRAN, MAI T	
			ART UNIT	PAPER NUMBER
			2129	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/853,684	TAKATA ET AL.
Examiner	Art Unit	
Mai T. Tran	2129	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 3 March 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. .

Disposition of Claims

4) Claim(s) 20-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 20-22 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 05262005.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. .
5) Notice of Informal Patent Application (PTO-152)
6) Other: .

DETAILED ACTION**RESPONSE TO AMENDMENT**

The amendment filed March 3, 2005 has been entered. Claims **1-19** have been canceled. Claims **20-22** have been added.

CLAIM REJECTIONS - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **20-22** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention.

In claim 20, line 2, the term “a flag” is indefinite since it is unclear which element is being claimed. Inasmuch as the specification, at page 17, line 11-13, and Figure 8, discloses “a charging acceptance discrimination flag” and “a detaching acceptance discrimination flag”, it is not clear whether these disclosed “flags” are the ones claimed in claim 20. Furthermore, “battery addition information” (claim 20, line 4) is also unclear, which requires further clarification. It appears that the recitation should have been --battery additional information--. Even so Applicants are required to particularly point out which element disclosed in the specification being claimed.

CLAIM REJECTIONS - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims **20-22** are rejected under 35 U.S.C. 102(e) as being anticipated by Kanno (U. S. Patent No. 5,943,650) hereinafter Kanno. See for example, Figures 10-14 and corresponding descriptions thereof.

Claim 20

Kanno teaches a method of controlling the use of a software, comprising: registering, in a predetermined storage area, a flag indicating whether or not a software battery is allowed to be charged (Serial No. 74 in Figure 12); obtaining battery additional information (charge value 72 of Figure 11) via a network (communication line 60 of Figures 10 and 12);

decreasing the obtained battery additional information as an application is used (step S604 in Figure 17 and step S106 in Figure 6, or step S204 in Figure 7); and

stopping the use of the application if the battery additional information decreases to a predetermined amount (step S101 in Figure 6, or step S201 in Figure 7).

Claim 21

Kanno's method further registers battery capacity, time of battery use, or number of times of battery use (usage amount table 44 in Figures 12 and 4, or internal clock 42 in Figure 12).

Claim 22

Kanno's method further selects the battery additional information obtained in the obtaining step (additional battery value 72 can comprise "additional time" or "additional amount" shown in Figure 11).

RESPONSE TO ARGUMENTS

Applicant's arguments filed March 3, 2005 have been fully considered but they are not persuasive. For example, Applicants argue, "there is no storage of a flag indicating whether or not the battery of a particular application is allowed to be charged". In Figure 12, Kanno discloses Serial No. 74, which reads on claim 20 line 2.

CONCLUSION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

CORRESPONDENCE INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mai T. Tran whose telephone number is (571) 272-4238. The examiner can normally be reached on M-F 9:00am--5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The

fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



M.T.T
Patent Examiner
Date: 5/26/2005

Wilbert L. Starks
Primary Examiner
Tech Center 2100